

had possessed himself of certain negroes, and other personal property of the deceased, claiming the same under a gift from him; and, was also in possession of a tract of land in Baltimore county, belonging to the testator's estate, which he refused to deliver to the petitioner, although, by a decree of the Chancellor, passed in January, 1848, in a cause between the said Charles A. Waters, complainant, and Charles Howard, and others, defendants, it was declared, that the said Charles A. Waters, had no title to said real and personal property, and that although an appeal was taken from the decree by said Waters, he had failed to give bond for the prosecution thereof; and contended, that it would be better for all parties, to permit him to retain possession of the property, and make his share of the estate in the hands of the trustee, responsible for the prosecution of the appeal. The petitioner further stated, that, at a sale made by him as trustee, the said Waters, became a purchaser of a part of the testator's estate, but he refusing to comply with terms of sale, the same was resold at a considerable loss, with which the share of said Waters, in the estate of the deceased, was properly chargeable. The object of the petition, was to obtain the directions of the court, as to the manner in which the trustee should act under the circumstances. An answer was put in to the petition, and same testimony taken in relation thereto; and the cause having been heard at this term, the Chancellor delivered the following opinion:]

---

THE CHANCELLOR:

Upon considering the petition, filed by Freeborn G. Waters, in this case, on the 20th of March last, and the answer thereto, and the other proceedings in the cause, and after hearing the counsel, my opinion is, that the share of the income and profits of the trust estate, in the hands of the petitioner, to which under the will of the testator, Charles Waters, his grandson, Charles A. Waters is entitled, are not chargeable with the claims against the said Charles A. Waters, which are stated to have become due to the testator in his lifetime—my opinion